

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

DAVID LANE JOHNSON,	:	Case No. 5:17-cv-00047-SL
	:	Judge Sara Lioi
Plaintiff,	:	
	:	
v.	:	<u><b>Plaintiff David Lane Johnson's Motion for</b></u>
	:	<u><b>Leave for Additional Time to Reply to</b></u>
NFLPA, et al.,	:	<u><b>Defendant NFLPA's Memorandum in</b></u>
	:	<u><b>Opposition to Plaintiff's Motion to Vacate</b></u>
Defendants.	:	<u><b>Arbitration Award, including the NFLPA's</b></u>
	:	<u><b>Supplemental Opposition</b></u>

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On January 6, 2017, Plaintiff David Lane Johnson filed a Motion to Vacate an Arbitration Award under the Federal Arbitration Act, 9 U.S.C. §§ 1-16 ("Motion to Vacate"). Doc. No. 3. Thirty days later, on February 6, 2017, the NFLPA filed its Memorandum in Opposition to Plaintiff's Motion to Vacate Arbitration Award ("Opposition"). Doc. No. 33.

On February 8, 2017, the Court issued an Order staying, in part, the proceedings, including the briefing on Johnson's Motion to Vacate. Doc. No. 36. Eight days later, the Court issued an Order "lift[ing] the stay of all proceedings." Doc. No. 42. Given this eight-day stay, Johnson's Reply Memorandum to the NFLPA's Opposition is due February 28, 2017 or eight days after its original due date of February 20, 2017. However, on the evening of February 27, 2017, the NFLPA issued a Supplemental Memorandum in further Support of its Opposition to Plaintiff's Motion to Vacate Arbitration Award ("Supplemental Opposition"). Doc. No. 44.

The Court's February 16, 2017 Order permitted "defendants an opportunity...to supplement any pending motion." Doc. No. 42 at 1851. The Order also provided Johnson an opportunity "to supplement any opposition" and defendants the opportunity to then "file supplemental replies." Doc. No. 42 at 1851. The Court's Order does not appear to allow

Johnson to supplement his only pending motion – the Motion to Vacate – or Defendants to supplemental their oppositions, as the NFLPA has done with its Supplemental Opposition.<sup>1</sup>

While the NFLPA's ability to file its Supplemental Opposition is in question, Johnson seeks only sufficient time to respond to it. Johnson respectfully moves for leave until March 9, 2017 to file his Reply Memorandum to the NFLPA's Opposition and Supplemental Opposition.

Respectfully submitted,

**ZASHIN & RICH CO., L.P.A.**

*s/ Stephen S. Zashin*

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<sup>1</sup> Defendants National Football League and National Football League Management Council (the "NFL Defendants") have not opposed Plaintiff's Motion to Vacate. Instead, the NFL Defendants filed a Motion to Stay Plaintiff's Motion to Vacate the Arbitration Award, or in the Alternative, Set a Briefing Schedule ("Motion to Stay"). Doc. No. 34. The Court's February 8, 2017 Order staying a portion of the proceedings disposed of the NFL Defendants' Motion to Stay. *See* Doc. No. 36 at 1685, fn. 1 ("[t]his order effectively resolves Doc. Nos. 17, 21, and 34; these motions should be termed by the clerk"). Despite the Court subsequently lifting the stay (*see* Doc. No. 42 at 1851), the NFL Defendants still have not filed any opposition to Johnson's Motion to Vacate. Johnson moved to vacate his erroneous arbitration award based on 9 U.S.C. §§ 10(a)(1), (2), (3), and (4). The NFLPA only opposes Johnson's Motion to Vacate under §§ 10(a)(1) and (2). As such, Johnson's grounds for vacating the arbitration award based on 9 U.S.C. §§ 10(a)(3) and (4) are unopposed. Johnson's Motion to Vacate should be granted under 9 U.S.C. §§ 10(a)(3) and (4) as unopposed.

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

The undersigned certifies that this matter has yet to be assigned a track and that this filing adheres to the 20-page limitation set forth in Local Rule 7.1(f) for unassigned cases. This filing also adheres to the page limitations set forth in the Initial Standing Order (Doc. No. 8).

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on February 28, 2017 the foregoing was filed using the Court's CM/ECF system. All parties and counsel of record will receive notice and service of this document through the Court's CM/ECF electronic filing system.

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